

ESTTA Tracking number: **ESTTA480014**

Filing date: **06/25/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Watercraft Superstore, Inc.
Granted to Date of previous extension	06/23/2012
Address	1401 North Myrtle Ave Clearwater, FL 33755 UNITED STATES
Correspondence information	Zachary D. Messa Attorney Johnson Pope Bokor Ruppel & Burns, LLP 911 Chestnut Street Clearwater, FL 33756 UNITED STATES zacharym@jpfirm.com Phone:727-461-1818

Applicant Information

Application No	77982989	Publication date	04/24/2012
Opposition Filing Date	06/25/2012	Opposition Period Ends	06/23/2012
Applicant	West Marine Products, Inc. 500 Westridge Drive Watsonville, CA 95076 UNITED STATES		


Goods/Services Affected by Opposition

Class 007. All goods and services in the class are opposed, namely: Water aeration systems comprising water pumps, bilge pumps
Class 008. Opposed goods and services in the class: hand tools, namely, wire cutters, pliers, scissors and wire crimper
Class 028. All goods and services in the class are opposed, namely: Fishing tackle, fishing tackle bags, fishing rods, fishing reels, fishing rod holders, fishing rod racks, outriggers, bait tables, namely, tables specifically adapted for preparing fishing bait for use in fishing; fish fillet tables, namely, tables for use in fishing that are specifically adapted for filleting fish; fish dehookers, namely, fish hook removers

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3990931	Application Date	12/07/2009
Registration Date	07/05/2011	Foreign Priority Date	NONE
Word Mark	BLACK TIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2010/05/26 First Use In Commerce: 2010/05/26 Personal flotation devices, namely, life vests</p> <p>Class 012. First use: First Use: 2010/02/01 First Use In Commerce: 2010/02/01 Fitted seat covers for marine vehicles, namely, fitted seat covers for personal watercraft</p> <p>Class 025. First use: First Use: 2010/11/09 First Use In Commerce: 2010/11/09 Clothing, namely, T-shirts, hats, shirts, shorts, sweatshirts and jackets</p> <p>Class 027. First use: First Use: 2010/02/04 First Use In Commerce: 2010/02/04 Anti-slip floor mats for marine vehicles, namely, anti-slip floor mats for personal watercraft</p>		

Related Proceedings	Oppositin No. 91205448
Attachments	77981996#TMSN.jpeg (1 page)(bytes) Watercraft Blacktip Opposition.pdf (4 pages)(15621 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Zachary D. Messa/
Name	Zachary D. Messa
Date	06/25/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Serial No.: 77982989

Mark: BLACKTIP

Published in the Official Gazette on April 24, 2012

_____)	
WATERCRAFT SUPERSTORE, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	
WEST MARINE, INC.)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Watercraft Superstore, Inc. a Florida corporation, located in Clearwater, Florida (“Opposer”) hereby opposes, under the provisions of Section 13 of the Trademark Act of July 5, 1946 (15 U.S.C. §1063), the grant of the application of West Marine, Inc.’s (“Applicant”), with an address of 500 Westridge Drive, Watsonville, California 95076, to register the mark BLACKTIP, Serial No. 77982989 for International Class 007, 008 and 028. The application published in the Official Gazette of the United States Patent and Trademark Office on April 24, 2012, and Opposer has timely sought extension of time to file the instant Opposition. The grounds for the Opposition are as follows:

1. Opposer is an establishment that owns and operates an extensive online store at www.watercraftsuperstore.net (the “Website”) dedicated exclusively to personal watercraft (PWC) and accessories thereof, including but not limited to engine parts, pump parts, watercraft trailer parts, life vest, wet suits, watercraft safety supplies, seat covers, anchors, and clothing. Included in Opposer’s product line are the BLACK TIP products consisting of PWC accessories.

2. Opposer is the owner of the United States Trademark Registration for BLACK TIP, Registration No. 3990931, in the following classes: IC 009 for personal flotation devices, namely, life vests; IC 012 for fitted seat covers for marine vehicles, namely, fitted seat covers for personal watercraft; IC 025 for clothing, namely, T-shirts, hats, shirts, shorts, sweatshirts and jackets; and IC 027 for anti-slip floor mats for marine vehicles, namely, anti-slip floor mats for personal watercraft.

3. Applicant has applied to register the term “BLACKTIP” in Serial No. 77982989 for International Classes 007, 008 and 028.

4. Applicant’s goods are related to the goods sold and provided in connection with Opposer’s “BLACK TIP” Mark to the extent that they are offered alongside and applicable to personal watercraft products and are likely to be and may be offered through the same, substantially the same, or related channels of trade, to the same, substantially the same, or related classes of purchasers, namely PWC owners and enthusiasts. Opposer’s goods, however, are not related or distributed in the same channels of trade as surfboards and stand-up paddle boards.

5. Applicant’s use of the mark BLACKTIP in connection with its proposed goods is likely to cause in the minds of the public confusion, mistake or deception as to the source of origin of Applicant’s services that would lead the relevant purchasing public to believe that Applicant’s goods are those of the Opposer’s and/or are provided by, sponsored by, approved by, licensed by, affiliated with the Opposer or are in some other way legitimately connected to Opposer and/or its services, goods, and/or licensed products. As a result, Opposer will be damaged by the registration of Applicant’s mark.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and Applicant's application to register the mark BLACKTIP mark, Serial No. 77982989, be denied in all respects, and other further relief be granted as may be deemed to be just and proper.

The \$300.00 filing fee for this Notice of Opposition is being submitted herewith.

Please address all correspondence regarding this opposition to:

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Counsel for Opposer

Respectfully submitted,

Dated: June 25, 2012

/Zachary D. Messa/
Zachary D. Messa
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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board on this 25th day of June, 2012.

/Zachary D. Messa/